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**Cc:** []

**From:** CN=Mary Simms/OU=R9/O=USEPA/C=US

**Sent:** Wed 2/16/2011 11:33:52 PM

**Subject:** UC Berkeley Blog: EPA prepares to wade into the Bay-Delta

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EPA prepares to wade into the Bay-Delta

Holly Doremus, professor of law | 2/16/11 | [Leave a comment](#)

<http://blogs.berkeley.edu/2011/02/16/epa-prepares-to-wade-into-the-bay-delta/>

The U.S. Environmental Protection Agency has announced “an information-gathering process on how the EPA and the State of California can achieve water quality and aquatic resource protection goals” in the California Bay-Delta. EPA is not proposing any new regulations yet, but it is seeking public comment on what it might do to address water quality conditions in the Bay-Delta that affect aquatic species. It is considering not just regulatory changes, but changes in “enforcement, research, revisions in water quality standards, etc.”

(The Federal Register notice is [here](#), and EPA’s longer “unabridged” version, which is essentially a report on water quality concerns in the Bay-Delta, is [here](#).)

This is definitely good news for those who want to see some action on Bay-Delta restoration. EPA is a key player in the Bay-Delta, but one that has been conspicuously absent for a number of years. EPA can bring leverage to bear on issues that are tough to address directly through the Endangered Species Act, including municipal wastewater discharges and pesticide pollution. EPA pressure to produce and implement honest water quality standards was one of the key triggers for the now-defunct CalFed process.

Of course, it remains to be seen if EPA can implement a Bay-Delta initiative. The agency faces a tough budget future at best: the White House has proposed cutting its budget by 12% for the current fiscal year (which is already nearly half over), while the Republicans in the House want cuts of three times that amount.

Also in the Continuing Resolution proposed by the House Republican leadership last week is a rider which would block implementation of fish-protection measures called for by the most recent biological opinions on the Central Valley and State Water Projects (see § 1475(a)).

Democratic Senator Dianne Feinstein has announced her opposition to the Bay-Delta rider. (Hat tip: Aquaforia.) But Feinstein is not exactly a robust vote for letting science drive water delivery decisions. Last year, she floated a proposal to exempt Bay-Delta water deliveries from the ESA. Her chief objection to the current proposal is apparently that it does not go far enough. From her press release: Water pumped out of the Delta is shared by federal and state water users. The bill’s language would prohibit federal users from limiting their share, so state users — including Southern California farmers and cities—could be forced to give up a significant portion of their water supply to compensate. Cross-posted from the environmental law and policy blog Legal Planet.

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